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July 5, 2020

BY ECF ONLY

The Honorable Jesse M. Furman
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 1007

**Re: Naik, et al. v. Swagat Restaurant, Inc. d/b/a Sapphire Indian Cuisine, et al.
Case No. 1:19-cv-05025-JMF**

Dear Judge Furman:

The Ottinger Firm, P.C. (“Ottinger”), represents Plaintiffs in the above captioned Action. On May 5, 2020, the parties participated in their second Settlement Conference before Mag. Judge Lehrburger. Defendants raised an inability to pay defense at the second Settlement Conference.

On May 14, 2020, Plaintiffs served the attached demand for information and documents necessary to probe Defendants’ claimed inability to pay defense. Defendants repeatedly committed to using their best efforts to collect and produce information and documents responsive to the attached through email and live telephone calls. On June 12, 2020, the Parties jointly wrote the Court requesting a stay of discovery while the parties continued their attempt to reach a settlement in this Action. *See* ECF [Dkt. 44](#).

On June 15, Your Honor entered the following Docket Text Order:

Docket Text:

ORDER granting [44] Letter Motion to Stay. Application GRANTED. Discovery in this case is hereby STAYED until further order of the Court. No later than July 15, 2020, the parties must file a joint letter regarding the status of settlement negotiations and whether discovery should remain stayed. The pretrial conference scheduled for July 8, 2020 is ADJOURNED sine die. The Clerk of Court is directed to terminate [ECF No. 44](#). SO ORDERED. (Signed by Judge Jesse M. Furman on 6/15/20) (yv)

See ECF [Dkt. 45](#). Prior to the submission of this Letter Motion, Plaintiffs exhausted all reasonable, good faith efforts to obtain Defendants’ documents that will permit Plaintiffs to probe Defendants’ claimed inability to pay defense. Defendants, however, completely failed to produce any evidence to Plaintiffs that will allow any investigation into Defendants’ claimed inability to pay defense.

Naik, et al. v. Swagat Restaurant, Inc. et al.
1:19-cv-05025-JMF
July 5, 2020
Page 2 of 2

In light of Defendants' refusal to cooperate, and in line with the Court's order that a status update be submitted prior to July 15, 2020, Plaintiffs respectfully request Your Honor lift the stay of discovery to permit Plaintiffs to probe Defendants' claimed inability to pay defense through the below described discovery schedule prior to issuing notice to any putative F.L.S.A Collective or moving Your Honor for certification of any putative New York Labor Law Class:

| | |
|---|--------------------|
| Supplemental Discovery Demands Served, including requests for production of documents by: | July 24, 2020 |
| Requests to Admit Served by: | August 31, 2020 |
| Contention Interrogatories Served by: | August 31, 2020 |
| Close of Pre-Motion Fact Discovery to be completed by: | October 30th, 2020 |

Thank you for your time and attention in the above request.

Respectfully submitted,

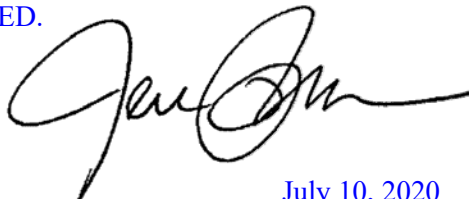
THE OTTINGER FIRM, P.C.



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cc: By ECF to all counselors of record.

Plaintiffs' letter-motion to lift the stay of discovery, and to impose the above-listed deadlines, is GRANTED as unopposed. See ECF No. 49. The pretrial conference previously scheduled for July 8, 2020, see ECF No. 38, is REINSTATED and ADJOURNED to **November 4, 2020 at 3:30 p.m.** The Clerk of Court is directed to terminate ECF No. 48. SO ORDERED.



July 10, 2020